FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioners herein request a variance from Section 1A01.3B.3 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a side yard setback of 15 feet in lieu of the required 35 feet for a proposed dwelling in accordance with Petitioner's Exhibit 1.

The Petitioners, by Oneida A. Jones, appeared and testified. Also appearing on behalf of the Petition was Deborah L. Hahn, Contract Purchaser. There were no Protestants.

Testimony indicated that the subject property, known as 5421 Arcadia Avenue, consists of 0.471 acres more or less zoned R.C. 2 and is presently unimproved. Petitioners have entered into a contract to sell the property to Ms. Hahn who is desirous of constructing a single family dwelling on the property in accordance with Petitioner's Exhibit 1. Testimony indicated that due to the width of the lot and the location of private water and septic systems thereon, a dwelling of sufficient size to meet the needs of the purchaser cannot be built. Petitioner's Exhibit 1 shows the property, which abuts the Western Maryland Railway on the west side, and existing improvements on the adjoining property on the east side. Testimony indicated that the relief requested will not result in any detriment to the health, safety or general welfare of the surrounding community and that to deny same would result in practical difficulty for Petitioners.

Petition for Variance

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a

Variance from Section 1A01.3B.3 to permit a side yard setback of

fifteen(15) feet in lieu of the required thirty-five(35) feet.

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County; for the following reasons: (indicate hardship or practical difficulty)

The let which has empted since 1942 as is, will not allow

a home to be built large anough for her family Moving How. A house further back cannot be done due to the septre area.

I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law For Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this l'etition.

Elwood F. Armacost

Thousand

Upperco, Md. 21155
City and State

Name, address and phone number of legal owner, con-tract purchaser or representative to be contacted

Deborah Hahn

Jones Armacost 5422 Arcadia Ave. 374-4281/374-9746

876-0272(Work) 374-5478(Home)

Oneida A. Jones

Legal Owner(s):

Property is to be posted and advertised as prescribed by Zoning Regulations.

to the Zoning Commissioner of Baltimore County

Contract Purchaser/Lessee:

Deborah L. Hahn

5420 Arcadia Ave.

Upperco, Md. 21155

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and his property. McLean v. Soley, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioner must meet the following:

> 1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome:

2) whether the grant would do substantial injustice to applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief; and

3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28

It is clear from the testimony that if the variance is granted, such use as proposed would not be contrary to the spirit of the B.C.Z.R. and would not result in substantial detriment to the public health, safety, and general welfare.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the variance requested should be granted.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this $\frac{3}{3}$ day of January, 1992 that the Petition for Zoning Variance from Section 1A01.3B.3 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit a side yard setback of 15 feet in lieu of the required 35 feet for a proposed dwelling, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restrictions:

1) The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioners would be required to return, and be responsible for returning, said property to its original condition.

2) When applying for a building permit, the site plan filed must reference this case and set forth and address the restrictions of this Order.

> har the horner TIMOTHY M. KOTROCO Deputy Zoning Commissioner for Baltimore County

CEIVED FOR F

ZONING DESCRIPTION

As recorded in Deed Liber 6714, Folio 526:

Beginning at a stake on the west side of Arcadia Avenue at the end of the North 9 degrees East 218 foot line, running thence binding on said line reversely as now surveyed, South 101 degrees West 218 feet to intersect the South 801 degrees West 24 perches line, thence binding on said line South 81 degrees 37 minutes West 98 feet to an old boundary stone standing on the east side of the Right of Way of the Western Maryland Railway, thence along the east side of said Right of Way North 13 degrees 18 minutes East 258.7 feet to the west edge of Arcadia Avenue, thence binding along the west wide of said avenue, South 73 degrees 7 minutes East 78.8 feet to the place of beginning, containing 0.471 of an acre of land, more or less. Being known as 5421 areadia due. in the community of incusting + the soil councilinance district et paltimore County.

NING DEPARTMENT OF BALTIMORE COUNTY

CERTIFICATE OF POSTING

- 3-

| Posted for: Warrena | Date of Posting 12 - 12 - 9/ |
|---------------------------------------|---|
| Posted for: Warnen | |
| Politicaer: Church & aras | nagest and Oneida a Genes |
| Location of property 5/5 of Oreache | nazort and America a Genes a runne, 1000'W of Trenton Poul |
| 5411 Creation Br | inc |
| Location of Signer Court le Brets 17. | axadia avenue en front of |
| surject property | · |
| Remarks: | |
| Posted by J. Q. Anta | Date of return: / 2-16-51 |

CERTIFICATE OF PUBLICATION

TOWSON, MD., ______, 19____

THIS IS TO CERTIFY, that the annexed advertisement was published in TOWSON TIMES, a weekly newspaper published in Towson, Baltimore County, Md., once in each of _____ successive weeks, the first publication appearing on ______, 19 ____.

Baltimore County Covernment Zonia, Conditionaria Office of Planning and Zoning

January 13, 1992

Suite 113 Courthouse 400 Washington Avenue Towson, MD 21201

Mr. Elwood F. Armacost

Ms. Oneida A. Jones

(410) 887-4386

S/S Arcadia Avenue, 1,000' W of Trenton Road

5422 Arcadia Avenue Upperco, Maryland 21155 RE: PETITION FOR ZONING VARIANCE

> (5421 Arcadia Avenue) 5th Election District - 3rd Councilmanic District Elwood F. Armacost and Oneida A. Jones - Petitioners Case No. 92-229-A

Dear Mr. Armacost & Ms. Jones:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Zoning Variance has been granted in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact Ms. Charlotte Radcliffe at 887-3391.

> Very truly yours, TIMOTHY M. KOTROCO

Deputy Zoning Commissioner for Baltimore County

5420 Arcadia Avenue, Upperco, Md. 21155 People's Counsel

cc: Ms. Deborah L. Hahn

Variance: to permit a side yard setback of 15 ft. in lieu of the required 35 ft.

TMK:bis

CERTIFICATE OF PUBLICATION

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published n Towson, Baltimore County, Md., once in each of $\frac{1}{1}$ successive weeks, the first publication appearing on $\frac{1212}{192}$. 19

ITEM 249



Account: R-001-6150

NATE: 1-3-92

111 West Chesapeake Avenue

Towson, MD 21204

Upperco, Maryland 21155

5420 Arcadia Avenue

CASE NUMBER: 92-229-A S/S Arcadia Avenue, 1000' W of Trenton Road 5421 Arcadia Avenue Sth Election District - 3rd Councilmanic Legal Owner(s): Elwood F. Armscost and Oneida A. Jones Contract Purchaser(s): Deborah L. Hahn

Dear Petitioner(s):

Please be advised that \$ 114.91 is due for advertising and posting of the above captioned

Baltimore County Government Office of Zoning Administration

and Development Management

Office of Planning & Zoning

THIS FEE MUST BE PAID. ALSO, THE ZOWING SIGN & POST SET(S) MUST BE RETURNED ON THE DAY OF THE HEARING OR THE ORDER SHALL NOT ISSUE. DO NOT REMOVE THE SIGN & POST SET(S) FROM THE PROPERTY UNTIL THE DAY OF THE

Please forward your check via return smil to the Zoning Office, County Office Building, 111 W. Chesapeake Avenue, Room 113, Towsun, Maryland 21204. It should have your case number noted thereon and be made payable to Baltimore County, Maryland. In order to prevent delay of the issuance of proper credit and/or your Order, immediate attention to this matter is suggested.

Zoning Commisioner

111 West Chesapeake Avenue

County Office Building

Towsen, Maryland 21204

Baltimore County
Zoning Commision
County Office Building

Please Make Chucks Payable To: Baltimore County 3114 91

Please Make Checks Payable To: Baltimore County 670 (1987)

Account: R-001-6150

Page 2

Cashier Validation

Zoning Plans Advisory Committe Coments

December 26, 1991

2) Anyone using this system should be fully aware that they are responsible for the accuracy and completeness of any such petition. All Petitions filed in this manner will be reviewed and commented on by Zoning personnel prior to the hearing. In the event that the petition has not been filed correctly, there is always a possiblity that another hearing will be required or the Zoning Commissioner will deny the petition due to errors or imcompleteness.

3) Attorneys and/or engineers who make appointments to file petitions on a regular basis and fail to keep to file petitions on a regular basis and fall to keep the appointment without a 72 hour notice will be required to submit the appropriate filing fee at the time future appointments are made. Failure to keep these appointments without proper advance notice, i.e. 72 hours, will result in the loss of filing fee.

Very truly yours,

Zoning Plans Advisory Committee

JED: jw

Enclosures

cc: Ms. Deborah L. Hahn 5420 Arcadia Avenue Upperco, MD 21155

Baltimore County Government Office of Zoning Administration and Development Management Office of Planning & Zoning

111 West Chesapeake Avenue Towson, MD 21204

(410) 887-3353

Your petition has been received and accepted for filing 25th day of November , 1991.

Petitioner: Elwood F. Armacost, et al Petitioner's Attorney:

Baltimore County Government Office of Zoning Administration and Development Management Office of Planning & Zoning

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore

Room 118, Baltimore County Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

County will hold a public hearing on the property identified herein in

111 West Chesapeake Avenue Towson, MD 21204

CASE NUMBER: 92-229-A

5421 Arcadia Avenue

Baltimore County

cc: Armacost/Jones

Deborah L. Hahn

S/S Arcadia Avenue, 1000' W of Trenton Road

Legal Owner(s): Elwood F. Armacost and Oneida A. Jones

Variance to permit a side yard setback of 15 ft. in lieu of the required 35 ft.

5th Election District - 3rd Councilmanic

Contract Purchaser(s): Deborah L. Hahn

HEARING: MONDAY, JANUARY 6, 1992 at 2:00 p.m.

887-3353

887-3353

111 West Chesapeake Avenue Towson, MD 21204

(410) 887-3353

December 26, 1991

Mr. Elwood F. Armacost 5422 Arcadia Avenue Upperco, MD 21155

> RE: Item No. 242, Case No. 92-229-A Petitioner: Elwood F. Armacost Petition for Variance

Dear Mr. Armacost

200

The Zoning Plans Advisory Committee (ZAC) has reviewed the plans submitted with above referenced petition. The attached comments from each reviewing agency are not intended to assure that that all parties, i.e. Zoning Commissioner, attorney and/or the petitioner, are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this

Baltimore County Government
Office of Zoning Administration

and Development Management

Office of Planning & Zoning

Enclosed are all comments submitted thus far from the members of ZAC that offer or request information on your petition. If additional comments are received from other members of ZAC, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on the date of the enclosed filing certificate and a hearing scheduled accordingly.

The following comments are related only to the filing of future zoning peitions and are almed at expediting the petition filing process with this office.

The Director of Zoning Administration and Development Management has instituted a system whereby seasoned zoning attorners who feel that they are capable of filing petitions that comply with all aspects of the zoning regulations and petitions filing requirements can file their petitions with this office without the necessity of a review by Zoning personnell.

BALTIMORE COUNTY, MARYLAND INTER-OFFICE CORRESPONDENCE

Arnold Jablon, Director DATE: December 10, 1991 Zoning Administration and Development Management

Pat Keller, Deputy Director Office of Planning and Zoning SUBJECT: Armacost/Jones Property, Item No. 242

In reference to the Petitioner's request, staff provides the

following comments:

-This property is located within the confines of the Hanover Pike Study Area.

-The site constraints in this case are exacerbated by the need to provide private utilities. Concerns regarding the location of the well area and septic reserve area and the ability to handle a correction in the future will need to be addressed by the Department of Environmental Protection and Resource Management.

-Should the applicant's request be granted, architectural drawings should be submitted for review by the deputy director of the Office of Planning and Zoning to ensure that any development is compatible with the homes in the immediate vicinity of the applicant's lot and the historic character of Arcadia.

If there should be any further questions or if this office can provide additional information, please contact Jeffrey Long in the Office of Planning at 887-3211.

PK/JL:rdn

ITEM242/TXTROZ

BUREAU OF TRAFFIC ENGINEERING DEPARTMENT OF PUBLIC WORKS BALTIMORE COUNTY, MARYLAND

DATE: December 17, 1991

Mr. Arnold Jablon, Director Office of Zoning Administration and Development Management

Rahee J. Famili SUBJECT: Z.A.C. Comments

Z.A.C. MEETING DATE: December 10, 1991

This office has no comments for item numbers 242, 243 and 244.

Traffic Engineer II

RJF/lvd

700 East Joppa Road, Suite 901 Towson, MD 2120+5500

(301) 887-4500

DECEMBER 6, 1991

Arnold Jablon Director Zoning Administration and Development Management Paltimore County Office Building Towson, MD 21204

RE: Property Owner: ELWCOD F. ARMACOST AND ONEIDA A. JONES

#5421 ARCADIA AVENUE Location:

Zoning Agenda: DECEMBER 10, 1991 Item No.: 242

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

7. The Fire Prevention Bureau has no comments at this time.

Noted and
Approved Fire Prevention Bureau Special Inspection Division

JP/KEK

BALTIMORE COUNTY, MARYLAND

DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT INTER-OFFICE CORRESPONDENCE

December 4, 1991

2840-92

Arnold Jablon, Director

Zoning Administration and Development Management

DIVISION OF GROUND WATER MANAGEMENT

SUBJECT: Zoning Item #242, Zoning Advisory Committee Meeting of December 10, 1991, Elwood F. Armacost & Oneida A. Jones, S/S Arcadia Avenue, 1000' W of Trenton Road (#4421 Arcadia Avenue) D-5. Private Water and Sewer

COMMENTS ARE AS FOLLOWS:

Soil percolation results are valid until September 4, 1994.

In accordance with Section 13-117 of the Baltimore County Code, the water well yield test shall be valid until November 26, 1994.

ZONING OFFICE

BALTIMORE COUNTY, MARYLAND INTEROFFICE CORRESPONDENCE

To: Armild dablan, Director DATE: December 6, 1991 Loning Administration and Pevelopment Management

TROM: Robert W. Bowling, P.I. Coning Advisory Committees Meeting for December 10, 1991

The Developers Engineering Division has reviewed the sabject sching items and we have no comments for Items 240, 241, 242, 240 and 244.

Developers Engineering Division

RWB:3

THIS DEED made this 14th day of May, in the year nineteen hundred and eighty four, by G. MARSHALL ARMACOST, ELWOOD F. ARMACOST and ONEIDA A. JONES, all of Baltimore County, in the State of Maryland.

Witnesseth, there being no actual consideration paid, the said G. MARSHALL ARMACOST, ELWOOD F. ARMACOST and ONEIDA A. JONES do hereby grant and convey in fee simple unto G. MARSHALL ARMACOST, ELWOOD F. ARMACOST and ONEIDA A. JONES, as tenants in common, their personal representatives and assigns, all those two lots or parcels of land situate in the Fifth Election District of Baltimore County, Maryland, and more particularly described as follows:

FIRST: All that lot or parcel of land situate in Arcadia, and described as follows:

Beginning at a stake on the west side of Arcadia Avenue at the and of the North 9 degrees East 218 foot line in a deed from J. Franklin Armacost and wife, to Marshall F. Armacost, dated February 21, 1917 and recorded among the Land Records Baltimore County in Liber No. 877 Folio 458, running thence binding on said line reversely as now surveyed, South $10\frac{1}{4}$ degrees West 218 feet to in tersect the South $80\frac{1}{2}$ degrees West 24 perches line in a deed from Lewis C. Caltrider and wife, to J. Franklin Armacost and wife, dated August 5, 1911 and recorded NEED among said Land Records in Liber No. 385 Folio 392; thence JRTbinding on said line South 81 degrees 37 minutes West 98#05327 C002 R02 T10:42 feet to an old boundary stone standing on the east side of the Right of Way of the Western Maryland Railway, thence along the east side of said Right of Way North 13 degrees 18 minutes East 258.7 feet to the west edge of Arcadia Avenue, thence binding along the west wide of said avenue, South 73 decrees 7 minutes East 78.8 feet to the place of beginning, containing 9.471 of an acre of land, more or less.

Being all and same land conveyed unto Marshall F. Armacost and Carrie O. Armacost, his wife, by deed of Matilda F. Armacost, dated August 1, 1942 and recorded among said Land Records in Liber No. 1954 Folio 456. 467

SECOND: All that lot or parcel of land situate on the north side of Arcadia Avenue, and described as follows:

TRANSFER TAX NOT REQUIRED

BALTIFICHE COUNTY MARYLAND
Per Human Authorized Samsture
Date 5-18 4 Sec. 11-85 E

Ü#

05/21/84

j1/MRRE2 '90 308-0001

LIDER 8 4 4 2 PAGE 8 4 5

THIS DEED OF DISTRIBUTION, made this (1/1/1/1), in the year one thousand nine hundred and ninety, by and between ONEIDA A. JONES, PERSONAL REPRESENTATIVE OF THE ESTATE OF GEORGE MARSHALL ARMACOST, deceased, late of Baltimore County in the State of Maryland, Grantor, and VONEIDA A. JONES, of Baltimore

County in the State of Maryland, Grantee. WHEREAS, George Marshall Armacost died a resident of Baltimore County on May 2, 1989, leaving a Last Will and Testament duly probated in the Orphans' Court for Baltimore County on July 3, 1989, Estate No.

67224; and WHEREAS, Oneida A. Jones duly qualified as the Personal Representative of the Estate of George Marshall Armacost in the Orphans' Court for Baltimore County on July 3, 1989; and

WHEREAS, according to the terms of the aforementioned Last Will and Testament of George Marshall Armacost, the hereinafter described property was devised unto Omeida A. Jones, who is now entitled to a distribution of the hereinafter described tract of land, in accordance with the terms of the aforementioned Last Will and Testament of George Marshall Armacost.

NOW, THEREFORE, THIS DEED OF DISTRIBUTIONERS WITNESSETH, that for and in consideration of the premises 0002 R02 TQY:23 and other good and valuable considerations, the receipt whereof is hereby acknowledged, the said Oneida A. Jones, Personal Representative of the Estate of George Marshall Armacost, pursuant to her authority under the aforementioned Last Will and Testament of George Marshall Armacost, does grant and convey unto the said Oneida A. Jones, her heirs, personal representatives and assigns, in fee simple, an undivided one-third (1/3) interest, in and to all those two tracts or parcels of land, situate, lying and being in the Fifth Election District of Baltimore County, Maryland, which, according to a deed of G. Marshall Armacost, et al., dated May 14, 1984 and recorded among the Land Records of Baltimore County in Liber E.H.K., Jr. No. 6714, Folio 526, etc., are described as follows, that is to say:

BALTI BUGSON

Date 3-17-20 90c. 11-85 |

TRANSFER TAX NOT REQUIRED

PLEASE PRINT CLEARLY 5422 ARCADIA AVE, UTIECCOSTO 21155 opperer, merzins

Plat to accompany Petition for Zoning Variance Special Hearing, PROPERTY ADDRESS: _// Arcadia Ave. Upperco, Md. 21155 plat book#_____,folio#_____,tot#____,section#____ OWNER: Elwood F. Armacost and Oneida A. Jones 11' Crom & Street PETITIONER'S North date: 11/17/91
prepared by: C.A. Myers and
Frederick Blickenstaff Scale of Drawing: 1'= 40'

LOCATION INFORMATION

Councilmanic District: Election District: 5

1'-200' scale map#: Nに 以K

Zoning: RC2

SEWER: WATER:

Zoning Office USE ONLY! 242 DAG

I 1711 042









